

## **REMARKS**

### **I. General**

Claims 1, 3-29, 31-33 and 35-37 are pending in the application. Claims 1, 3-11, 20-29, 31, 36 and 37 are allowed. Claims 12-14, 18 and 19 stand rejected under 35 U.S.C. § 102. Claims 15-17 stand rejected under 35 U.S.C. § 103. Claims 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 33 is further objected to because of an informality. Claim 35 is objected to because of an informality, but is otherwise allowable.

Applicant thanks the Examiner for the indication of allowability for claims 1, 3-11, 20-29, 31-33 and 35-37. Applicant hereby traverses the outstanding objections and rejections, and respectfully requests reconsideration and withdrawal in light of the remarks and amendments contained herein.

### **II. Amendments to the Claims**

Claims 33 and 35 are amended to overcome the objections, as suggested by the Examiner. Accordingly, Applicant requests that the objections to claims 33 and 35 be withdrawn.

Claim 12 has been amended to clarify the invention. Although not conceding the merit of the rejection of record, claim 12 has been amended in order to expedite the issuance of the allowed claims. Support for this amendment can be found in the originally-filed specification, at least in lines 13-24 of page 9. No new matter has been entered by this amendment.

### **III. Rejections under 35 U.S.C. § 102**

Claims 12-14, 18 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,889,821 to Arnstein et al. ("Arnstein").

It is well settled that to anticipate a claim, the reference must teach every element of the claim. M.P.E.P. § 2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim."

M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Applicant respectfully asserts that the rejections do not satisfy these requirements.

Independent claim 12 now recites “determining the most efficient of: scheduling said RF data transfer during said intervals that avoid said interference; and transmitting said RF data during said data transfer intervals and allowing forward error correction of a receiver to correct errors in said RF data transfer.” Arnstein does not disclose at least this element of claim 12. The Office Action, dated January 9, 2006 admits that the prior art of record does not teach this limitation. Therefore, Arnstein does not disclose all the limitations of claim 12. Accordingly, Applicant asserts that claim 12 is patentable for, at least, the reason set forth above, and requests withdrawal of the U.S.C. § 102(b) rejection of claim 12.

Claims 13, 14, 18 and 19 depend from base claim 12, and thus inherit all the limitations of claim 12. Claims 13, 14, 18 and 19, therefore, set forth features and limitations not disclosed by Arnstein. Applicant asserts that these dependent claims are patentable for, at least, the reasons set forth above with respect to claim 12. Accordingly, Applicant requests the Examiner withdraw the U.S.C. § 102(b) rejections of claims 13, 14, 18 and 19.

#### **IV. Rejections under 35 U.S.C. § 103**

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Arnstein in view of U.S. Patent No. 6,374,082 to Carlson (“Carlson”). Claims 16 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arnstein in view of Carlson and further in view of U.S. Patent Application Publication No. 2002/0173271 by Blair et al. (“Blair”). Applicant traverses these rejections as provided below.

In order to establish obviousness under 35 U.S.C. § 103(a), three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Third, the applied art must teach or suggest all the claim limitations. M.P.E.P. § 2143.03. Applicant asserts that the rejections do not satisfy these criteria.

**A. Rejection over Arnstein and Carlson**

Claim 15 depends from base claim 12, and thus inherits all the limitations of claim 12. As shown above, claim 12 sets forth features and limitations not disclosed by Arnstein. Carlson is not relied upon to supply the missing limitations. Therefore, Applicant asserts that dependent claim 15 is patentable for, at least, the reasons set forth above with respect to claim 12. Accordingly, Applicant requests the Examiner withdraw the U.S.C. § 103(a) rejection of claim 15.

**B. Rejection over Arnstein, Carlson and Blair**

Claims 16 and 17 depend from base claim 12, and thus inherit all the limitations of claim 12. As shown above, claim 12 sets forth features and limitations not disclosed by Arnstein. Carlson is not relied upon to supply the missing limitations. Therefore, Applicant asserts that dependent claims 16 and 17 are patentable for, at least, the reasons set forth above with respect to claim 12. Accordingly, Applicant requests the Examiner withdraw the U.S.C. § 103(a) rejections of claims 16 and 17.

**V. Conclusion**

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 06-2380, under Order No. 68144/P001US/10500783 from which the undersigned is authorized to draw.

Dated: 04/05/2006

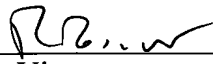
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Dated: 04/05/2006

Signature: 

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